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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/530,687

03/14/2006

Berne Geewe

1523-1015

6918

466 7590 11/17/2008
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EXAMINER

FERGUSON, MICHAEL P

ART UNIT

PAPER NUMBER

3679

MAIL DATE

DELIVERY MODE

11/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/530,687	Applicant(s) GEEWE, BERNE	
	Examiner MICHAEL P. FERGUSON	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2005 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/08/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because of the following:

In the abstract, lines 6 and 7 each recite "moulded". Lines 6 and 7 should each recite --molded--.

In the abstract, line 11 recites "the road, see Figures 1, 2 and 3". It should recite --the road--.

Correction is required. See MPEP § 608.01(b).

Claim Objections

2. Claims 1-5 are objected to because of the following informalities:

Claim 1 (line 7) recites "moulded". It should recite --molded--.

Claim 2 (line 1) recites "noise protection". It should recite --noise barrier--.

Claim 3 (line 4) recites "method includes". It should recite --method comprising--.

Claim 3 (line 7) recites "characterised in moulding". It should recite --characterized in molding--.

Claim 4 (line 2) recites "side intended". It should recite --side of the sound absorbent intended--.

Claim 5 (line 2) recites "moulding". It should recite --molding--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Z-Block Scandinavia (WO 02/04749).

As to claim 1, Z-Block Scandinavia discloses a noise barrier for positioning next to a road or railway comprising a sound-reflecting framework and a sound absorbent made of rubber granulate **20** mixed with a bonding agent, whereby the framework comprises an upper portion **13**, a sole portion **11** and a back portion **12**, against which the sound absorbent is applied so that the sound absorbent is surrounded by the upper portion, the back portion and the sole portion, and has a side intended to face towards the road or the railway, characterized in that the sound absorbent is partially molded into the framework (Figure 2, page 3 lines 22-25).

As to claim 3, Z-Block Scandinavia discloses a method for producing a noise, barrier, intended for placing next to a road or a railway, the noise barrier comprising a sound reflecting framework comprising an upper portion **13**, a sole portion **11** and a back portion **12**, and a sound absorbent **20** of a rubber granulate mixed with a bonding agent, the method comprising applying the sound absorbent so that the sound absorbent is surrounded by the upper portion, the back portion and the sole portion and

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has a side intended to face towards the road or railway characterized in molding the sound absorbent partially into the framework (Figure 2, page 3 lines 22-25).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Z-Block Scandinavia in view of Johnson (US 7,063,184).

As to claim 2, Z-Block Scandinavia fails to disclose a noise barrier wherein a mesh element is arranged next to the sound absorbent on the side facing towards the road or the railway.

Johnson teaches a noise barrier wherein a mesh element **70** is arranged next to a sound absorbent **30** on a side facing towards a road or a railway; mesh element **70** comprises a flexible, liquid resistant fabric which securely retains sound absorbent **30** within framework **60** and prevents moisture damage to the sound absorbent (Figures 17-20, column 10 lines 12-17). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the noise barrier disclosed by Z-Block Scandinavia to comprise a mesh element as taught by Johnson in order to provide a flexible, liquid resistant means for securely retaining the sound absorbent within the framework and preventing moisture damage to the sound absorbent.

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As to claims 4 and 5, Z-Block Scandinavia discloses a method including partially molding the sound absorbent **20** into the framework (Figure 2, page 3 lines 22-25). Z-Block Scandinavia fails to disclose a method including arranging a mesh element on the side of the sound absorbent intended to face towards the road or the railway.

Johnson teaches a method including arranging a mesh element **70** on the side of a sound absorbent **30** intended to face towards a road or a railway; mesh element **70** comprises a flexible, liquid resistant fabric which securely retains sound absorbent **30** within framework **60** and prevents moisture damage to the sound absorbent (Figures 17-20, column 10 lines 12-17). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method disclosed by Z-Block Scandinavia to comprise a mesh element as taught by Johnson in order to provide a flexible, liquid resistant means for securely retaining the sound absorbent within the framework and preventing moisture damage to the sound absorbent.

Conclusion

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents show the state of the art with respect to noise barriers:

Haring (CH 682 090), Reed (US 2003/0006090), Link, Jr. et al. (US 4,566,558) and Schmanski (US 5,272,284) are cited for pertaining to noise barriers comprising a sound-reflecting framework and a sound absorbent made of rubber granulate mixed with a bonding agent.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL P. FERGUSON whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (6:30am-3:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MPF
11/12/08

/Michael P. Ferguson/
Primary Examiner, Art Unit 3679